IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 16646 of 2004

Between:

Sd. Sardar Hussain, W/o. Ahmed Hussain,
E-75682, A.P.S.R.T.C. Banswada Depot, Nizamabad District.

... PETITIONER

AND

1 The Regional Manager, APSRTC, Nizamabad Region, Nizamabad.
2 The Deputy C.T.M. APSRTC, Nizamabad.
3 The Depot Manager, APSRTC, Bodhan Depot, Bodhan, Nizamabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings No. Steno/19(38)/99, dated 16-6-2004 to the extent of re-engaging the petitioner as "daily wage driver afresh" on the file of the 2nd respondent herein and confirmed by the 1st respondent by his order dt. 04-06-2004 as illegal, arbitrary and against the principles of natural justice and consequently direct the respondents herein to regularize the petitioner's services on par with the order of drivers whose services were regularized with effect from 01-01-2001 and pass such other order or orders as this Court deems fit and proper in the interest of justice.

Counsel for the Petitioner: Mr.JITENDER RAO VEERAMALLA

Counsel for the Respondents: Mr.P.VINAYAKA SWAMY

The Court at the admission stage made the following:

Oral Order:

The petitioner is working as a driver in the respondents—Corporation. On 28-4-1999 the third respondent terminated him from service by directing the deletion of his name from the list of selected drivers without conducting any enquiry. The petitioner preferred an appeal to the second respondent and the second respondent through the order dated 16-6-1999, while setting aside the order of termination passed by the first respondent, reinstated him afresh as daily wage driver without considering his past service. The petitioner filed a review petition before the first respondent, but the first respondent rejected the same on 4-6-2004. The petitioner therefore approached this Court through this writ petition seeking to declare that the proceedings of the first respondent dated 16-6-2004 directing to engage the petitioner as a daily wage driver afresh as illegal, arbitrary and against the principles of natural justice.

The termination order dated 28-4-1999 indicates that a show cause notice was issued to the petitioner and the petitioner submitted his explanation on 23-4-1999. The third respondent without conducting any enquiry passed the order of termination. The petitioner therefore contends that the order cannot be sustained as it is against the principles of natural justice.

The law is well settled on this issue and an order of termination without conducting an enquiry in respect of a temporary employee is also against the principles of natural justice. Since admittedly no enquiry was conducted before terminating the services of the petitioner, the order of termination dated 28-4-1999, and the modification order of the second respondent dated 16-6-1999 directing to engage afresh the petitioner as a driver on daily wage basis are set aside. The petitioner is entitled to the consequential benefits on account of setting aside the order dated 28-4-1999.

In the result, the writ petition is allowed. The proceedings of the third respondent dated 28-4-1999 and the proceedings of the second respondent dated 16-6-1999 are set aside. The respondents are directed to pay all consequential benefits to the petitioner on account of setting aside the order of

termination. The third respondent is directed to restore the name of the petitioner to the list of selected drivers and shall continue to take the services of the petitioner in the manner in which his services were engaged previously.

This order will not preclude the respondents from initiating any disciplinary action against the petitioner and to pass appropriate orders after conducting an enquiry by giving opportunity to the petitioner to participate in the enquiry proceedings.

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(Dr.G. Yethirajulu, J)

17th September 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Regional Manager, APSRTC, Nizamabad Region, Nizamabad.
2 The Deputy C.T.M. APSRTC, Nizamabad.
3 The Depot Manager, APSRTC, Bodhan Depot, Bodhan, Nizamabad District.

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